IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

Crl.MC.No. 2114 of 2007()

CC.612/2006 of JUDL.MAGISTRATE OF FIRST CLASS, SULTHANBATHERY

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PETITIONER: ACCUSED NO. 1 AND 3

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1. THANKACHAN @ CHACKO
   MANKUZHIKARIYIL HOUSE,
   THANNIRMUKKAM P.O. CHERTHALA.

2. LALIMMA CHACHO
   W/O.THANKACHAN,
   MANKUZHIKARIYIL HOUSE,
   THANNIRMUKKAM P.O.CHERTHALA.

BY ADV. SRI.JOBY CYRIAC

RESPONDENTS: STATE OF KERALA

THE STATE OF KERALA REP.BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA
AT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2114 of 2007

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Dated this the 2nd day of July, 2007

O R D E R

The petitioners are accused 1 and 3 in a prosecution for offences punishable, inter alia, under Sections 471 and 420 r/w. 511 I.P.C. They are spouses. They were not available for trial. The case against the co-accused has been split up. They have been tried and found not guilty and acquitted. Against the petitioners, warrants of arrest were issued by the learned Magistrate. They once came to this Court and secured Annex.A1 order. They subsequently appeared before the learned Magistrate and were enlarged on bail. They have again committed default and consequently they face the unenviable predicament of warrants of arrest issued by the learned Magistrate chasing them. They submit that they are innocent. Their absence was not wilful. They are willing to appear and co-operate with the court to expeditiously complete the proceedings. But they apprehend that their applications for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioners on bail on the date of surrender itself.

3. I do not find any circumstance justifying the issue of any direction under Section 482 Cr.P.C. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners when they surrender before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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